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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/803,270	03/08/2001	Bruce D. Melick	P04458US1	6374
22885	7590	05/19/2005	EXAMINER	
MCKEE, VOORHEES & SEASE, P.L.C. 801 GRAND AVENUE SUITE 3200 DES MOINES, IA 50309-2721			MILLS, DONALD L	
			ART UNIT	PAPER NUMBER
			2662	

DATE MAILED: 05/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/803,270

Applicant(s)

MELICK ET AL.

Examiner

Donald L. Mills

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, 6, and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Flammer et al. (US 4,939, 726), hereinafter referred to as Flammer.

Regarding claim 1, Flammer discloses a method for routing packets in a packet communication network, which comprises:

*Contacting a second device's home network server over a transmission path, wherein the second device geographic position is stored on the home network server* (Referring to Figure 1, transmitting packets to repeating nodes A-Z (home network server) over link 12, the received packet is stored at the repeating node for analysis, the packet comprises a geographical position of the destination node Y. See column 6, lines 32-34 and column 4, lines 18-21.)

*Requesting the second device geographic position* (Referring to Figure 1, the packet is transmitted from the source to the requested destination (requesting the geographic position). See column 6, lines 28-30.)

*Receiving the second device geographic position from the home network server over the transmission path into memory* (Referring to Figure 1, geographical position of the destination

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node Y (second device geographic position) of the packet is received and stored for analysis by the next repeating node over links 12. See column 6, lines 32-34 and column 4, lines 18-21.)

*Transmitting the data and second device geographic position over the transmission path to a node having a node geographic position* (Referring to Figure 1, the data in the packet and geographical position of the destination Y are transmitted to a repeating node over link 12. See column 6, lines 32-34 and column 4, lines 18-21,) *wherein the node reads the second device geographic position, accesses a recipient geographic position for possible recipients, accesses the node geographic position, compares the node geographic position with the second device geographic position and selects a recipient based at least in part on the geographic proximity of the recipient to the second device* (Referring to Figure 2, each node consults its internal neighbor list and routes data in turn to the next neighbor node on the path according to its geographical location in relation to the intended destination. See column 6, lines 32-34.)

*Transmitting the data from the node to the recipient over the transmission path* (Referring to Figure 1, data is routed from the source to the destination Y over links 12. See column 6, lines 29-34.)

Regarding claim 2, Flammer discloses *wherein the transmission path is wired* (Referring to Figure 1, delivery of data packets within a LAN. See column 5, lines 41-43.)

Regarding claim 6, Flammer discloses *wherein the second device geographic position is supplemented with a device identifier* (Referring to Figure 1, the geographical position of the destination node Y (second device) is identified by the Wide Area Net Destination Address, WANDA. See column 5, lines 8-9.)

Regarding claim 7, Flammer discloses *wherein the second device is the recipient* (Referring to Figure 1, destination node Y (second device). See column 6, lines 32-34 and column 4, lines 18-21.)

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flammer et al. (US 4,939, 726), hereinafter referred to as Flammer, in view of Kostreski et al. (US 5,729,549), hereinafter referred to as Kostreski.

Regarding claim 3 as explained in the rejection statement of claim 1, Flammer discloses all of the claim limitations of claim 1 (parent claim).

Flammer does not disclose *wherein the transmission path is wireless*.

Kostreski teaches transmitting signals across a multi-channel broadband digital wireless broadcasting network and a packet data network (See column 7, lines 56-62.)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to implement the wireless network of Kostreski in the system of Flammer. One of ordinary skill in the art would have been motivated to do so in order to reduce network latency between wired remote nodes.

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Regarding claim 4 as explained in the rejection statement of claim 1, Flammer discloses all of the claim limitations of claim 1 (parent claim).

Flammer does not disclose *wherein the transmission path includes wireless and wired portions.*

Kostreski teaches transmitting signals across a multi-channel broadband digital wireless broadcasting network and a packet data network (See column 7, lines 56-62.)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to implement the wireless network of Kostreski in the system of Flammer. One of ordinary skill in the art would have been motivated to do so in order to reduce network latency between wired remote nodes.

Regarding claim 5 as explained in the rejection statement of claim 1, Flammer discloses all of the claim limitations of claim 1 (parent claim).

Flammer does not disclose *wherein the second device geographic position is transmitted as at least a part of an internet protocol address.*

Kostreski teaches a packet data network which supports data services from a PC through the network to a host computer or to an INTERNET network interface (See column 7 lines 60-62.)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to implement the IP network of Kostreski in the system of Flammer. One of ordinary skill in the art would have been motivated to do so in order to establish compatibility with a known standard.

***Response to Arguments***

5. Applicant's arguments filed December 22, 2004 have been fully considered but they are not persuasive.

**Rejection Under 35 § 102**

On page 6 of the remarks, regarding claim 1, the Applicant argues Flammer does not disclose *contacting a second device's home network server over a transmission path, wherein the second device geographic position is stored on the home network server; requesting the second device geographic position; and receiving the second device geographic position from the home network server over the transmission path into memory*. The Examiner respectfully disagrees. Although, the invention of the instant application and that of the prior art are drawn to different inventions, when reading the claims in a reasonable and broad interpretation the claims are anticipated by Flammer. Specifically, Flammer discloses transmitting packets to repeating nodes A-Z (home network server) over link 12, the received packet is stored at the repeating node for analysis (storing the geographic position on the home network server); the packet comprises a geographical position of the destination node Y (See column 6, lines 32-34 and column 4, lines 18-21.) And, the packet is transmitted from the source to the requested destination (requesting the geographic position) (See column 6, lines 28-30.) Flammer further discloses the geographical position of the destination node Y (second device geographic position) of the packet is received and stored for analysis by the next repeating node over links 12 (See column 6, lines 32-34 and column 4, lines 18-21.) Therefore, Flammer discloses *contacting a second device's home network server over a transmission path, wherein the second device geographic position is stored on the home network server; requesting the second device geographic position;*

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*and receiving the second device geographic position from the home network server over the transmission path into memory.*

On page 6 of the remarks, regarding claim 6, the Applicant argues Flammer does not disclose *wherein the second device geographic position is supplemented with a device identifier.*

The Examiner respectfully disagrees. The claim is very broad and has several reasonable interpretations. One such interpretation, Flammer discloses the geographical position of the destination node Y (second device) is identified by the Wide Area Net Destination Address, WANDA (device identifier) (See column 5, lines 8-9.) The Examiner interprets the device identifier as any reference to the device. The Applicant seems to have a particular definition in mind; however, it is unclear from the context of the claim what their exact definition may be.

Rejection Under 35 § USC 103

On page 7 of the remarks, regarding claim 3, the Applicant argues neither Flammer nor Kostreski disclose, teach, or otherwise make obvious *wherein the transmission path is wireless.* The Examiner respectfully disagrees. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). In addition, the position of a mobile station can always be known by its GPS coordinates; thereby, retaining an instantaneous absolute geographical coordinate regardless of whether its position is dynamic or static. One must simply know its position at a particular point in time.

### ***Conclusion***



6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Donald L. Mills whose telephone number is 571-272-3094. The examiner can normally be reached on 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hassan Kizou can be reached on 571-272-3088. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Donald L Mills

*Dr M*

May 13, 2005

A handwritten signature in black ink, appearing to read 'J. Pezzlo', with a stylized flourish at the end.

**JOHN PEZZLO  
PRIMARY EXAMINER**